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In re Application of : DECISION ON
HIMMLER et al. :
Application No.: 10/520,549 :
PCT No.: PCT/EP03/06980 : PAPERS
Int. Filing Date: 01 July 2003 :
Priority Date: 11 July 2002 : UNDER 37 CFR 1.42
Attorney's Docket No.: CS8445/LeA 36,137 :
For: CIS-ALKOXY-SUBSTITUTED SPIROCYCLIC
1-H-PYRROLIDINE-2,4-DIONE DERIVATIVES :
SERVING AS PESTICIDES :

This is a decision on the renewed submission under 37 CFR 1.42 filed by applicants on 21 July 2006.

BACKGROUND

On 01 July 2003, applicants filed international application PCT/EP03/06980 which claimed a priority date of 11 July 2002 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 January 2005.

On 06 January 2005, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 31 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 10 April 2006, applicants filed a submission which was accompanied by, *inter alia*, a copy of a declaration of inventors and a return receipt confirmation of a facsimile transmission received by the USPTO on 09 March 2006. The indication in the declaration of inventors that inventor Christoph Erdelen is deceased was treated as a request for status under 37 CFR 1.42.

On 20 June 2006, a decision was mailed granting applicants' petition to accept the copy of the declaration filed 10 April 2006 as having been received on 09 March 2006 and vacating the NOTIFICATION OF MISSING REQUIREMENTS mailed 31 March 2006. The decision dismissed applicants' request for status under 37 CFR 1.42 because the declaration failed to indicate that "Angelika Lubos-Erdelen is the sole heir or is the legal representative for the deceased inventor."

On 21 July 2006, applicants filed the instant renewed submission under 37 CFR 1.42.

DISCUSSION

The instant submission points out that the submission filed 09 March 2006 contained a statement by applicants' representative that "[t]o the best of my knowledge and belief, Angelika Lubos-Erdelen is the sole heir to Christoph Erdelen." The undersigned overlooked that statement in the decision mailed 20 June 2006. Any inconvenience is regretted.

The submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed and thus the sole heir is signing as the legal representative of the estate. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision. Accordingly, the application papers are now in compliance with 37 CFR 1.42.

The declaration of inventors filed 09 March 2006 is now in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.


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